

**CALIFORNIA VICTIM COMPENSATION  
AND GOVERNMENT CLAIMS BOARD  
October 24, 2003**

**630 "K" Street  
First Floor Hearing Room  
Sacramento, California**

**RESTITUTION FUND CONDITION AND BUDGET UPDATE**

**HIGHLIGHTS**

In January 2003, it was predicted the Restitution Fund might end fiscal year 2003-2004 (FY 03/04) with an \$80 million deficit. The Board took immediate and decisive action to avoid this dire circumstance. The present condition of the Restitution Fund is much more positive:

- The Restitution Fund no longer has a deficit and is likely to remain solvent for the foreseeable future.
- The Restitution Fund will receive its largest Federal Grant in history this fiscal year, in excess of \$64 million, assuming no changes in Federal Victims of Crime Act (VOCA) funding.
- The Restitution Fund is expected to end this fiscal year with a prudent reserve and will avoid cash flow problems. Therefore, it is anticipated that Victim Compensation Program claim payments will not need to be withheld as they were earlier this year, absent unforeseen circumstances.

**BUDGET OVERVIEW**

	Projected FY 02/03 Gov. Budget*	Actual FY 02/03	Difference FY 02/03	Projected FY 03/04	Projected FY 04/05
<b>Beg. Reserve</b>	<b>57,710</b>	<b>58,854</b>	<b>1,144</b>	<b>45,237</b>	<b>77,333</b>
<b>Revenue</b>					
• State	106,567	103,549	-3,018	110,733	116,688
• Federal	46,742	46,742	0	64,795	39,491
<b>Total</b>	<b>211,019</b>	<b>209,145</b>	<b>-1,874</b>	<b>220,765</b>	<b>233,512</b>
<b>Expenditures</b>					
•Claims Pymts	126,671	117,030	-9,641	95,323	100,089
•VCP Computer	---	---		2,303 <sup>†</sup>	---
•All Other**	52,937	46,879	-6,058	45,806	45,691
<b>Total</b>	<b>179,608</b>	<b>163,909</b>	<b>-15,699</b>	<b>143,432</b>	<b>145,780</b>
<b>Cash Balance</b>	<b>31,411</b>	<b>45,236</b>	<b>13,825</b>	<b>77,333</b>	<b>87,732</b>

\$ in Thousands. For more detail, please see Appendix A.

\*Projected in May 2002 (Governor's Budget, May Revision)

\*\*Includes variety of expenditures, including statutorily mandated rebates to counties for collecting debts owed to the Restitution Fund, UCSF costs, statewide administrative pro rata costs, revenue recovery efforts, salaries, benefits, etc.

<sup>†</sup>Projected costs for development of new claims processing system for VCP. When completed, this system is expected to save the Board \$1 million annually in computer maintenance costs alone.

### **FY 2002/03 Projected vs. Actual Revenue & Expenditures**

The most significant difference between the Board's projected revenue and expenditures for FY 2002/03 (as stated in the May revise of the Governor's Budget) and its actual revenue and expenditures is in claims payments. The Board's claims payments were \$9.6 million less than originally projected. The reasons for this decrease are discussed in more detail below. The Board's "other expenditures" were \$6 million less than projected, including \$2.4 million less in administrative costs associated with the Board's Joint Powers Contracts and Criminal Restitution Compacts,<sup>1</sup> and \$2 million less to the Department of Justice for witness protection.<sup>2</sup>

The Board was successful in ending FY 02/03 with a small reserve. However, it was unable to avoid significant cash flow problems because the Board's federal grant was not received until late in the fiscal year. The Board's federal funding is derived from an annual grant award received pursuant to the Federal Victims of Crime Act (VOCA). Unfortunately, VOCA grant funds are not distributed until April or May of each year. The Board did not have sufficient cash on hand to meet its claims payments from January through May 2003. As a result, the Board was forced to withhold approximately \$18 million in payments to service providers for up to four months, until the federal funds were received.

### **FY 2003/04 Projected Revenue & Expenditures**

Net resources for the current fiscal year (FY 03/04) are expected to increase by \$11.6 million from the prior fiscal year, while expenditures are likely to decrease significantly. The increase in net resources is the result of a variety of factors including a significantly increased federal VOCA grant award. Another significant factor is that restitution debt collection from California Department of Correction (CDC) inmates is anticipated to increase by \$4 million as a result of CDC increasing its wage and inmate trust garnishment rates from 20 to 30 percent, effective July 1, 2003. The decrease in expenditures is primarily attributed to a projected decrease of Victim Compensation Program claims payments. This projected decrease is based on an average monthly payment of claims for the last 10 months.

These projections are a significant departure from the projections presented to the Board in January 2003, especially those concerning claims payments expected in FY 03/04. At that time, the FY 03/04 claims payments were projected based on the average monthly claims payments for the 16 months preceding January 1, 2003. For a variety of reasons,

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<sup>1</sup> Joint Powers Contracts are agreements between the Board and various county Victim/Witness Centers pursuant to which the Board funds positions to process Victim Compensation Program claims locally. Criminal Restitution Compacts are agreements between the Board and District Attorney Offices or other local government offices pursuant to which the Board funds positions locally to seek criminal restitution obligations on behalf of the Board.

<sup>2</sup> Three million dollars annually were to be directed from the Restitution Fund to the Department of Justice to fund its witness protection program. However, the transfer was contingent upon the Restitution Fund being solvent and having a prudent reserve. When the Board was faced with a significant deficit, as discussed elsewhere in this paper, the witness protection funds were not transferred as planned. Instead, the witness protection program was funded from the State Penalty Assessment Fund.

the Board's payments during that time were extraordinarily high. Had the trend in claims payments that existed at that time continued unabated, the Restitution Fund was predicted to end FY 03/04 with a deficit of \$80 million.<sup>3</sup> The Board successfully avoided this by adopting significant cost-containment measures, reviewing policies, refocusing staff efforts on statutory and regulatory compliance and reducing its administrative costs, as discussed further below.

#### **FY 04/05 Projected Revenue and Expenditures**

The Board's efforts allow the Board to begin FY 04/05 with a modest reserve, something the Board has been working diligently to obtain so as to avoid cash flow problems during the fiscal year. Revenue from restitution fines is expected to increase by \$6 million over FY 03/04 as the result of CDC increasing its inmate trust account and wage garnishment rates from 30 to 50 percent, effective July 1, 2004.<sup>4</sup> The Board's federal VOCA grant award will be significantly less in FY 04/05 than in FY 03/04 because the amount of the award is based on past claims payments, which have been steadily declining from their peak in FY 01/02.

Claims payments are expected to increase by approximately \$5 million. This assumes a modest five percent growth in claims payments. Other expenditures (excluding claims payments) are expected to decrease by \$2.5 million, a portion of which is attributed to mandated personnel services reductions (pursuant to Control Section 4.10).

#### **FEDERAL VOCA GRANT FUNDING**

To better explain the Board's recent cash flow problems, it is necessary to explain the interplay between the Board's VOCA grant funds and the Board's other major funding source, the State Restitution Fund. The State of California receives a federal VOCA grant each year to fund victim assistance services and the Board's Victim Compensation Program.

The federal Victims of Crime Act of 1984 created a Crime Victims Fund. Like the State's Restitution Fund, the federal Fund is volatile in that its revenue is derived from criminal fines, forfeited bail bonds, penalties and special assessments collected by the U.S. Attorneys' Offices, federal U.S. courts, and the Federal Bureau of Prisons. State crime victim compensation programs receive 47.5% of the total amount distributed. There is a cap on the amount that may be distributed each year. Currently, the cap is \$550 million.

The amount each state victim compensation program may receive is determined by a specified formula. Currently, California's Victim Compensation Program is eligible to receive 60% of the amount of compensation paid from the State's Restitution Fund in the

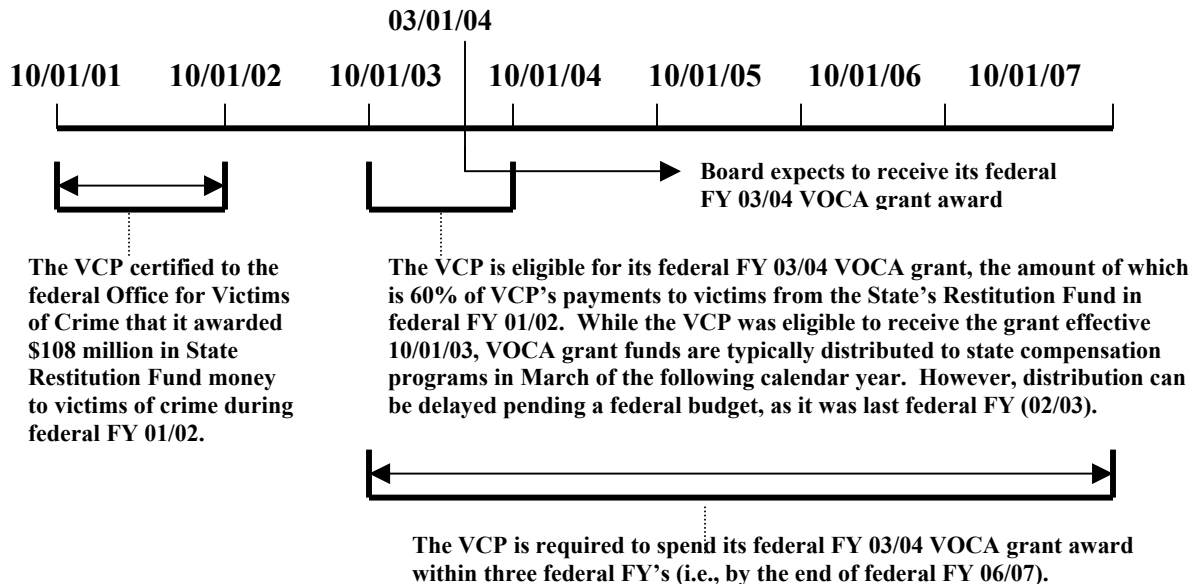
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<sup>3</sup> See, Victim Compensation Budget Paper for Board Discussion, January 10, 2003, pp. 6-7.

<sup>4</sup> This projected increase will be eliminated if Assembly Bill (AB) 1760 is signed into law, as it will statutorily cap CDC garnishment rates at 30 percent. AB 1760 is in the Assembly awaiting concurrence in Senate amendments.

federal fiscal year two years prior. As VOCA grant funds are intended to match state funds, increased reliance on federal funds in one fiscal year decreases federal funds available in subsequent fiscal years.

The following depicts the chronology affecting the Board's VOCA grant funding (the federal fiscal year is October 1 through September 30):



Board staff continually monitor the status of the federal VOCA grants and work to ensure that California maximizes its use of federal grant funds.

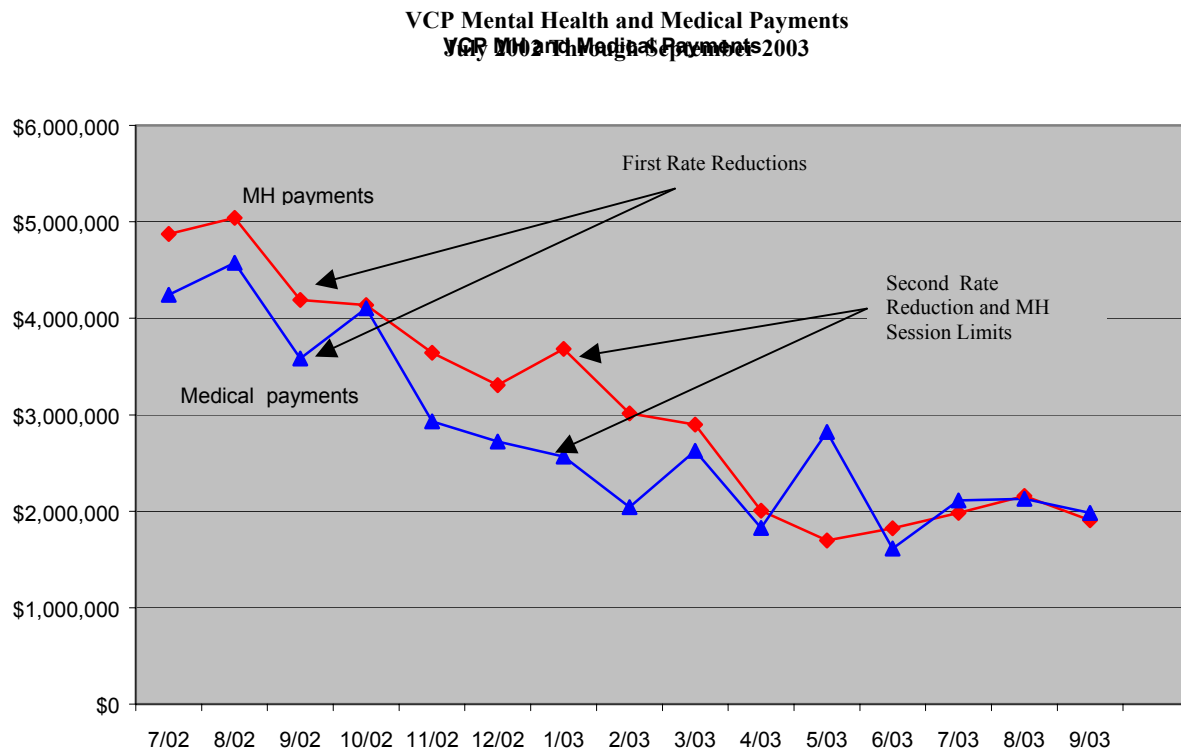
### **DECREASE IN CLAIMS PAYMENTS**

There are many reasons the Board's claims payments have significantly decreased over the past year. First, the Board lowered its rates for mental health sessions from \$90-\$130 to \$70 or \$90, depending on the licensure of the treating therapist. The Board also reduced its medical and dental treatment rates by adopting the Medicare fee schedule and the Denti-Cal fee schedule. The Board's rates for these services were previously tied to the Workers' Compensation fee schedule, which was significantly higher. The reduced rates were adopted by the Board at its meeting in July 2002 and applied prospectively to services rendered on or after September 1, 2002.

In January 2003, the Board further reduced medical treatment rates to the Medicare fee schedule, less 20 percent for all claims filed on or after January 10, 2003, and at the same time limited the number of mental health treatment sessions for most claimants. The Board also directed legal staff to conduct a thorough review of its policies for compliance with its governing statutes. It is difficult to determine the effect of each of these actions individually. However, combined there is no doubt they have been extremely successful in avoiding the once-predicted \$80 million deficit.

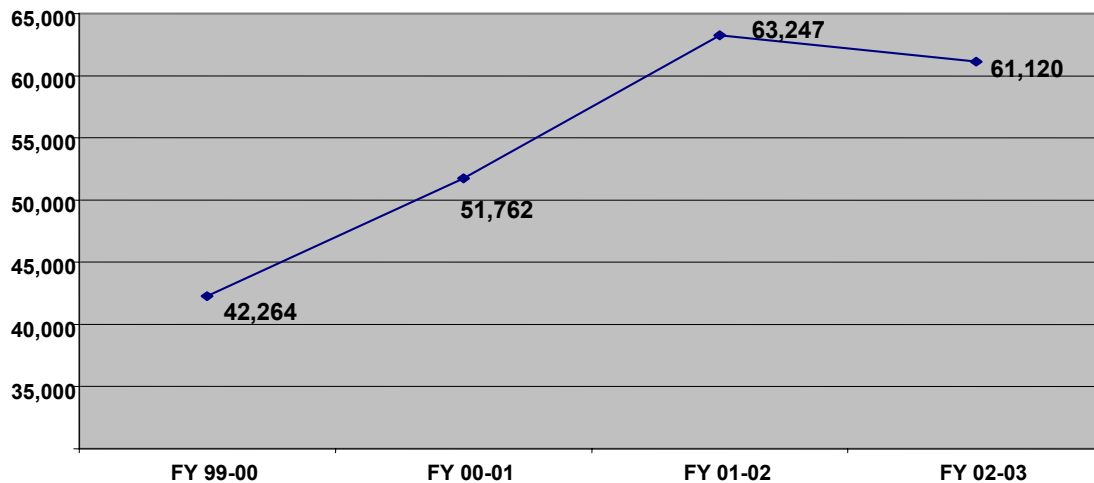
In order to better identify trends, the Board tracks the number of applications and bills it receives and the amount it pays out. The following charts and accompanying analysis show the effect of the Board's actions to reduce claims payments.

This chart shows the significant decrease in the Board's medical and mental health payments since July 2002, when the Board first announced reduced rates would be in effect for services rendered on or after September 1, 2002.



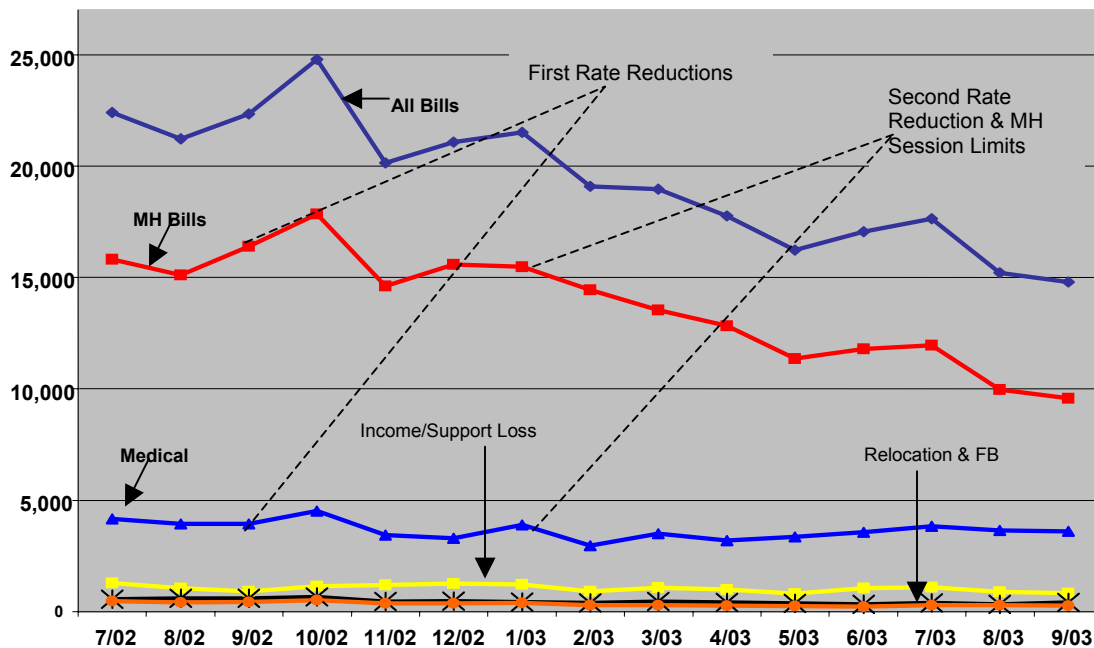
It appears that despite a significant decrease in overall payments, the Board's actions have not resulted in a significant decrease in applications for compensation, as depicted below.

VCP Applications Received FY 99/00 through FY 02/03



The Board's cost-containment actions have resulted in a significant decrease in the number of mental health bills received. However, medical bills (including dental) have stayed relatively stable, as have requests for income/support loss, relocation expenses, and funeral/burial expenses, as shown below.

VCP Bills Received July 2002 through September 2003



It is simply too early to identify and predict long-term trends resulting from the Board's cost containment actions. It is possible the Board will receive an increase in mental

health bills once the contents of this document are public and providers determine they can once again rely on timely payments from the Board. Board staff will continue to monitor the situation and report to the Board significant trends and long-term predictions as they are identified.

### **OTHER ACTIONS TAKEN**

#### **Program Assessment**

The Board has identified the need for more consistent claims processing. Board staff have clearly been challenged with many changes over the course of the last three years. During this period, the Board's statutes have been reorganized, new regulations have been promulgated, Board policy has changed significantly, a wide variety of new claims processing procedures have been implemented, and a new Hearing Office was created resulting in Board precedent decisions that directly affect Board policy. Many of these changes were critical to the Board's progress. However, their combined impact on staff cannot be overstated.

Managing these changes would be challenging if the Board had a centralized claims processing staff. The challenge is even greater with the Board's claims processing staff located in numerous counties throughout the State. With all the recent changes, the need for Board staff to focus on its core functions has never been more critical.

#### **Legal Review of Policies**

The Board also directed legal staff to conduct a review of all Board policies for compliance with statute. This review identified a few areas where Board policies were in need of immediate change. Those changes have since been implemented. In addition, the legal review highlighted the need for the Board to update its regulations, which is currently in progress. Clearly defining the Board's policies in regulation is critical not only to consistent claims processing. It is also a fundamental precursor to the development of the Board's new automated claims processing system, currently in the procurement process.

#### **Administrative Reductions**

The Board reduced its administrative costs through personnel reductions and by reducing its external contracts. For instance, the Board's Joint Powers Agreements and Criminal Restitution Compacts with counties were reduced by \$2.4 million in FY 02/03.

#### **New Claims Processing System**

The Board is in the process of developing a new Windows-based claims processing system to replace its antiquated mainframe. When completed next year, the Board can expect more consistent and efficient claims processing statewide, as well as an annual savings of \$1 million in maintenance costs alone. The project is funded entirely from federal VOCA grant administrative funds, thereby saving the State considerable money in the future without increasing current Restitution Fund or General Fund expenditures.

### **FUTURE CONSIDERATIONS**

The Board has weathered a particularly challenging time. However, it has not been without significant progress. As mentioned above, Board staff are currently developing a new and greatly improved automated claims processing system and clarifying Board policies through the promulgation of regulations. Once these tasks are complete, Board staff will focus significant resources on training claims processing staff statewide.

In short, the Board is getting back to basics by focusing on Victim Compensation Program benefits as currently defined in statute. There are no plans to expand Victim Compensation Program benefits through legislation at this time, as there is a critical need for stability and assessment. Board staff will continue to monitor the solvency of the Restitution Fund with the intent of building and maintaining a prudent reserve so as to avoid cash flow problems in the future.

There is, however, one outstanding issue from the Board's recent cost containment actions. Specifically, when the Board adopted the Medicare fee schedule, less 20 percent for medical services, it represented that the reduced rates would be in effect only until such time as the Restitution Fund was again solvent. Board staff will be evaluating the fiscal impact of implementing higher reimbursement rates for medical expenses and will make recommendations to the Board on this issue in the near future.